

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
IN ADMIRALTY

CASE NO. 1:22-CV-22645-KMM

NIMBUS BOAT RENTAL, CORP,
CRISTIAN VALDES and
ELAINE LEYVA

Plaintiffs,

v.

F/V NIRVANA; a 2005, 105 ft. RODMAN,
her engines, boats, tackle, apparel, and furnishings,
Hull number DLZ138521512 *IN REM* and
ANGEL GARCEL, individually &
JET SKIS IN MIAMI, CORP. *IN PERSONAM*

Defendants.

**DEFENDANTS' MOTION FOR ENTRY OF JUDGMENT ON MOTION FOR
ATTORNEY'S FEES**

Defendants, Angel Garcel and Jet Skis in Miami, Corp. (collectively, "Defendants"), by and through undersigned counsel, file this Motion for Entry of Judgment on Defendants' Motion for Attorney's Fees and in support thereof state:

1. On August 19, 2022, Nimbus Boat Rental Corp., Cristian Valdes, and Elaine Leyva (collectively, "Plaintiffs") filed a verified complaint with this Court alleging that the Defendants were imminently attempting to sell a 2005 Rodman (Nirvana) vessel, and requesting that the Court issue an immediate arrest of the said vessel due to the exigent circumstances at hand. (ECF No. 1).
2. On September 1, 2022, Defendants filed a Verified Statement of Right or Interest in a 2005 105 Rodman, Hull Identification Number DLZ138521512, and Motion for Order to Show Cause. (ECF No. 25).
3. On October 7, 2022, this Court granted the Defendants' Motion for Order to Show Cause. (ECF No. 64). In its Report and Recommendation, the Court found several material

misrepresentations concerning the Plaintiffs' Verified Complaint. *Id.* at p.14 (“Plaintiffs’ certification of exigent circumstances . . . in the Verified Complaint **were not accurate**. As evidence that Defendants were imminently going to sell the boat, Plaintiffs attached a listing to the Verified Complaint (ECF No. 1-5). Evidence developed at the hearing reveals that this is ***Plaintiffs’ listing for Plaintiffs’ sale of the Vessel, not Defendants’ listing***.” (emphasis added)).

4. This Court “recommend[ed] that Defendants be awarded fees, costs, and other expenses incurred as a result of the arrest.” *Id.* at p.19.

5. Plaintiffs were ordered to “serve and file written objections . . . on or before October 17, 2022.” *Id.* The Plaintiffs failed to respond to the Court’s Order. *See generally* (ECF).

6. On October 19, 2022, the Honorable Judge Moore adopted this Court’s recommendation and ordered the Plaintiffs to “reimburse” the Defendants. (ECF No. 66, p.3) (“Plaintiffs are ordered to reimburse Defendants in accordance with Local Admiralty Rule C(7).”).

7. Defendants filed their Motion for Attorney’s Fees on November 8, 2022. (ECF No. 74). Defendants demanded \$123,073.68 in attorney’s fees and other expenses. (ECF No. 74, p.5).

8. Plaintiffs were ordered to respond by November 22, 2022. *Id.*

9. Once again, despite the Court's Order, the Plaintiffs have failed to respond to the Defendants' Motion for Attorney's Fees and have neglected to do so for a period of ***forty-five (45) days*** since the expiration of their deadline.

10. Given the Plaintiffs' failure to respond to the Motion for Attorney's Fees, it is appropriate for the Court to enter a judgment awarding the requested amount of \$123,073.68 to the Defendants. The Court has previously ordered the Plaintiffs to reimburse the Defendants in accordance with Local Admiralty Rule C(7), and, as the deadline for contesting the Motion for Attorney's Fees has passed, it can be inferred that the Plaintiffs have, yet again, ignored the Court’s Order.

11. Based on the foregoing, Defendants are entitled to a final judgment against Plaintiffs in the amount of \$123,073.68.

WHEREFORE, Defendants, Angel Garcel and Jet Skis in Miami, Corp., respectfully request that this Court enter a Judgment against Nimbus Boat Rental, Corp, Cristian Valdes, and Elaine Leyva in the amount of \$123,073.68, and for such other relief this Court deems just and proper.

Dated: January 6, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 6, 2023, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will serve it upon counsel for Plaintiffs, Robert N. Pelier of the Law Office of Robert N. Pelier, P.A., located at 4649 Ponce de Leon Boulevard, Suite 301 Coral Gables, FL 33146.

By: /s/ Javier A. Lopez

Javier A. Lopez, Esq